

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

VISIBLE SYSTEMS CORPORATION,

Plaintiff

v.

UNISYS CORPORATION,

Defendant

Civil Action No. 04-CV-11610-RGS

**DEFENDANT'S MOTION FOR ADDITIONAL TIME TO
RESPOND TO PLAINTIFF'S POST-TRIAL MOTION**

At a conference following the jury verdict in this case on July 31, 2007, the parties and the Court discussed the filing of Visible Systems' motion for injunctive and other relief. The Court orally directed that Visible Systems file its motion within 21 days, and gave Unisys 14 days to file its response—that is, until September 4.

On August 21, Visible Systems filed its "Motion for Injunction, Declaratory Rulings Based on Jury Verdict, Award of Profits, and Attorneys Fees" (Document No. 118). The motion, which goes far beyond the scope contemplated in the discussion on July 31, (1) seeks entry of a broad injunction against Unisys; (2) requests a "supplemental jury trial" for further factfinding on Visible Systems' claim for disgorgement of Unisys's profits, or in the alternative an award by the Court of \$100 million in profits-disgorgement; (3) seeks re-consideration of Magistrate Judge Bowler's July 12, 2007 decision denying a discovery motion by Visible Systems; (4) requests multiple damages under 15 U.S.C. § 1117(a); (5) requests attorneys' fees on the ground that this is an "exceptional case" within the meaning of that statute; and (6) seeks a ruling that Unisys

violated Mass. Gen. L. ch. 93A, and an award of damages on that basis.

Unisys has determined that it needs additional time to respond adequately to Visible Systems' motion. Aside from the number and complexity of the issues raised by Visible Systems, in order to promote efficiency by having all pertinent issues before the Court at the same time, Unisys plans to include in its response a cross-motion for entry of judgment in its favor pursuant to Fed. R. Civ. P. 50(b) and 59—a motion that Unisys could otherwise hold until after entry of judgment. In addition, Unisys is still awaiting from the court reporter the transcript of the conference between the parties and the Court on July 30, which included discussion of the jury charge and other matters important to Unisys's response and cross-motion.

Finally, the undersigned lawyer principally responsible for preparing Unisys's response learned today that he must travel out of state during most of the coming week for a family funeral.

For these reasons, Unisys requests an extension of two weeks, until September 18, to file its response.

Dated: August 27, 2007

UNISYS CORPORATION,
By Its Attorneys,

/s/ William L. Boesch
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William L. Boesch, BBO No. 558742
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LOCAL RULE 7.1 CERTIFICATE OF CONSULTATION

I hereby certify that counsel for Unisys Corporation consulted with opposing counsel on August 27, 2007 in an effort to resolve or limit the issue raised by this motion. As Unisys's counsel understands plaintiff's position, it is willing only to grant Unisys an extension of 3 days, to September 7, 2007.

___/s/ William L. Boesch_____

CERTIFICATE OF SERVICE

I hereby certify that this document is being filed through the ECF system, and that I am therefore relying on the system to complete service by sending copies of the filing electronically to the necessary counsel, who are registered participants.

___/s/ William L. Boesch_____

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